

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Joseph A. Kinsella, as Administrator and personal representative of the Estate of Katherine Kinsella, and Joseph A. Kinsella, individually and on behalf of all distributees of Katherine Kinsella, deceased,

Plaintiffs

v.

Wyman Charter Corp., Michael P. Wyman, Joseph Jay Shore, Cord Mitchell Shore, Caralyn Shore, Toad Hall Corp., Ian McColgin, the Motor Vessel "Sea Genie II," her engines, tackle and appurtenances, in rem, the Sailing Vessel "Granuaile," her engines, tackle and appurtenances, in rem,

Defendants.

Civil Action No.:

JOINT STATEMENT AND DISCOVERY PLAN

Pursuant to Fed. R. Civ. P. 26(f), Local Rule 16.1 and the Court's Order dated September 16, 2004, counsel for all Parties and defendant Ian McColgin submit this Joint Statement and Proposed Discovery Plan:

I. RULE 26(f) CONFERENCE OF THE PARTIES

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1(B), counsel for the Parties and Ian McColgin have conferred to discuss: 1) the nature and basis for their claims and defenses; 2) the possibility for a prompt settlement or resolution of the case; 3) to arrange for the disclosures required by Rule 26(a)(1); 4) to develop a proposed plan of the case that includes a discovery plan; 5) to prepare an agenda of items to be discussed at the scheduling conference; and 6) to consider whether they will consent to trial by magistrate judge.

Pursuant to Local Rule 16.1(C), the Parties agreed to extend the time for Plaintiffs to send a written settlement proposal to Defendants until October 27, 2004.

The Parties are not willing to consent to a trial by magistrate judge.

II. PROPOSED DISCOVERY SCHEDULE

Deadline to Complete Fact Discovery (the Parties agree that more time may be needed due to the necessity of obtaining overseas discovery)	June 30, 2005
Plaintiff's Designation of Expert(s) and Service of Expert Report(s) (if any)	August 15, 2005
Defendants' Designation of Expert(s) and Service of Expert Report(s) (if any)	October 3, 2005
Deadline to Complete Expert Depositions	October 28, 2005
Deadline to File Summary Judgment Motions (if any)	January 6, 2006

The Parties agree to ask the Court for an extension of these deadlines for good cause; or, in the event the Parties do not utilize experts, to reduce the period of time set by the foregoing schedule, as appropriate.

Counsel for the Shore defendants has raised a concern regarding the limitations contained in Local Rule 26.1(C). Counsel is concerned that possibly as many as 60 individuals, including rescue personnel, may have witnessed some part of the events at issue in this matter. Counsel for the Shore defendants indicated that he might seek a waiver of the presumptive limit of 10 depositions per side (or group of parties with a common interest). The remaining parties take no position on this issue at present.

III. CERTIFICATIONS

The undersigned attorneys for each Party, and as authorized representatives of each Party, affirm that they have conferred (a) with a view to establishing a budget for the costs of

conducting the full course—and various alternative courses—of the litigation; and (b) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

Dated: October 21, 2004

Joseph A. Kinsella, as Administrator and personal representative of the Estate of Katherine Kinsella, and Joseph A. Kinsella, individually and on behalf of all distributees of Katherine Kinsella,

Wyman Charter Corp.

By their attorneys,

By its attorneys,

_____/s/
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Mr. McColgin participated in the meet and
confer telephone conference. Counsel has
been unable to reach Mr. McColgin to obtain
his approval on the form of this Joint
Statement.